

him either in person or by pleader and showing cause against the order ; and, if the Magistrate rejects the application wholly or in part, he shall record in writing his reasons for so doing.

early opportunity of appearing before him either in person or by pleader and showing cause against the order ; and if the Magistrate ^{or the Commissioner of Police} rejects the application wholly or in part, he shall record in writing his reasons for so doing.

* * * * *

*[(6)] No order under this section shall remain in force for more than two months from the making thereof ; unless, in cases of danger to human life, health or safety, or a likelihood of a riot or an affray, the ⁴[(5)] [State] Government], by notification in the Official Gazette, otherwise directs.

CHAPTER XII.

DISPUTES AS TO IMMOVEABLE PROPERTY.

Procedure where dispute concerning land, etc., is likely to cause breach of peace.

145. (1) Whenever a District Magistrate, Sub-Divisional Magistrate or Magistrate of the first class is satisfied from a police-report or other information that a dispute likely to cause a breach of the peace exists concerning any land or water or the boundaries thereof, within the local limits of his jurisdiction, he shall make an order in writing stating the grounds of his being so satisfied, and requiring the parties concerned in such dispute to attend his Court in person or by pleader, within a time to be fixed by such Magistrate, and to put in written statements of their respective claims as respects the fact of actual possession of the subject of dispute and further requiring them to put in such documents, or to adduce, by putting in affidavits, the evidence of such persons, as they rely upon in support of such claims.

Procedure where dispute concerning land, etc., is likely to cause breach of peace.

145. (1) Whenever a ⁴[(Chief Presidency Magistrate)], District Magistrate, Sub-Divisional Magistrate ⁷or any other Executive Magistrate specially empowered by the State Government in this behalf] is satisfied from a police-report or other information that a dispute likely to cause a breach of the peace exists concerning any land or water or the boundaries thereof, within the local limits of his jurisdiction, he shall make an order in writing stating the grounds of his being so satisfied, and requiring the parties concerned in such dispute to attend his Court in person or by pleader, within a time to be fixed by such Magistrate, and to put in written statements of their respective claims as respects the fact of actual possession of the subject of dispute ⁸[and further requiring them to put in such documents, or to adduce, by putting in affidavits, the evidence of such persons, as they rely upon in support of such claims].

¹ Inserted by Bom. 34 of 1953, s. 5.

² Sub-section (5A) was deleted by Bom. 71 of 1954, s. 4.

³ The original sub-section (5) was renumbered (6) by Act 18 of 1923, s. 27.

⁴ Substituted by the A. O. 1937 for "L. G."

⁵ Substituted by the A. O. 1950 for "Provincial".

⁶ Inserted by Bom. 34 of 1953, s. 6.

⁷ Substituted by Bom. 23 of 1951, s. 2 and Schedule Part I, for "or Magistrate of the first class".

⁸ Added by Act 26 of 1955, s. 18(a).

(2) For the purposes of this section the expression "land or water" includes buildings, markets, fisheries, crops or other produce of land, and the rents or profits of any such property.

(3) A copy of the order shall be served in manner provided by this Code for the service of a summons upon such person or persons as the Magistrate may direct, and at least one copy shall be published by being affixed to some conspicuous place at or near the subject of dispute.

[(4) The Magistrate shall then, without reference to the merits or the claims of any of such parties to a right to possess the subject of dispute, peruse the statements, documents and affidavits, if any, so put in, hear the parties and conclude the inquiry, as far as may be practicable, within a period of two months from the date of the appearance of the parties before him and, if possible, decide the question whether any and which of the parties was at the date of the order before mentioned in such possession of the said subject :

Provided that the Magistrate may, if he so thinks fit, summon and examine any person whose affidavit has been put in as to the facts contained therein :

Provided further that, if it appears to the Magistrate that any party has within two months next before the date of such order been forcibly and wrongfully dispossessed, he may treat the party so dispossessed as if he had been in possession at such date :

Provided also that, if the Magistrate considers the case one of emergency, he may at any time attach the subject of dispute, pending his decision under this section].

(5) Nothing in this section shall preclude any party so required to attend, or any other person interested, from showing that no such dispute as aforesaid exists or has existed ; and in such case the Magistrate shall cancel his said order, and all further proceedings thereon shall be stayed, but, subject to such cancellation, the order of the Magistrate under sub-section (1) shall be final.

(6) If the Magistrate decides that one of the parties was ²[or should under the Party in possession to retain possession until illegally evicted.] ³[second proviso] to sub-section (4) be treated as being] in such possession of the said subject, he shall issue an order declaring such party to be entitled to possession thereof until evicted therefrom in due course of law, and forbidding all disturbance of such possession until such eviction ⁴[and when he proceeds under the ³[second proviso] to sub-section (4), may restore to possession the party forcibly and wrongfully dispossessed].

[(7) When any party to any such proceeding dies, the Magistrate may cause the legal representative of the deceased party to be made a party to the proceeding and shall thereupon continue the inquiry, and if any question arises as to who the legal representative of a deceased party for the purpose of such proceeding is, all persons claiming to be representatives of the deceased party shall be made parties thereto].

¹[(8) If the Magistrate is of opinion that any crop or other produce of the property, the subject of dispute in a proceeding under this section pending before him, is subject to speedy and natural decay, he may make an order for the proper custody or sale of such property, and, upon the completion of the inquiry, shall make such order for the disposal of such property, or the sale-proceeds thereof, as he thinks fit.

(9) The Magistrate may, if he thinks fit, at any stage of the proceedings under this section, on the application of either party, issue a summons to any witness directing him to attend or to produce any document or thing.

¹ Substituted by Act 26 of 1955, s. 18(b), for the original sub-section (4).

² Inserted by s. 23, Act 18 of 1923.

³ Substituted by Act 26 of 1955, s. 18(c), for "first proviso".

⁴ Substituted for the original sub-section (7) by s. 25, Act 18 of 1923.

(10) Nothing in this section shall be deemed to be in derogation of the powers of the Magistrate to proceed under section 107.]

Power to
attach
subject of
dispute.

146. 1[(1) If the Magistrate is of opinion that none of the parties was then in such possession, or is unable to decide as to which of them was then in such possession, of the subject of dispute, he may attach it, and draw up a statement of the facts of the case and forward the record of the proceeding to a Civil Court of competent jurisdiction to decide the question whether any and which of the parties was in possession of the subject of dispute at the date of the order as explained in sub-section (4) of section 145; and he shall direct the parties to appear before the Civil Court on a date to be fixed by him :

Provided that the District Magistrate or the Magistrate who has attached the subject of dispute may withdraw the attachment at any time, if he is satisfied that there is no longer any likelihood of a breach of the peace in regard to the subject of dispute.

(1A) On receipt of any such reference, the Civil Court shall peruse the evidence on record and take such further evidence as may be produced by the parties respectively, consider the effect of all such evidence, and after hearing the parties decide the question of possession so referred to it.

(1B) The Civil Court shall, as far as may be practicable, within a period of three months from the date of the appearance of the parties before it, conclude the inquiry and transmit its finding together with the record of the proceeding to the Magistrate by whom the reference was made; and the Magistrate shall, on receipt thereof, proceed to dispose of the proceeding under section 145 in conformity with the decision of the Civil Court.

(1C) The costs, if any, consequent on a reference for the decision of the Civil Court, shall be costs in the proceedings under this section.

(1D) No appeal shall lie from any finding of the Civil Court given on a reference under this section nor shall any review or revision of any such finding be allowed.

(1E) An order under this section shall be subject to any subsequent decision of a Court of competent jurisdiction.]

(2) When the Magistrate attaches the subject of dispute, he may, if he thinks fit²[and if no receiver of the property, the subject of dispute, has been appointed by any Civil Court] appoint a receiver thereof, who, subject to the control of the Magistrate, shall have all the powers of a receiver appointed under the Code of Civil Procedure.³

²[Provided that, in the event of a receiver of the property, the subject of dispute, being subsequently appointed by any Civil Court, possession shall be made over to him by the receiver appointed by the Magistrate, who shall thereupon be discharged.]

Disputes
concerning
rights of use
of immove-
able pro-
perty, etc.

147. (1) Whenever any District Magistrate, Sub-Divisional Magistrate or Magistrate of the first class is satisfied, from a police-report or other information, that a dispute likely to cause a breach of the peace exists regarding any alleged right of user of any land or water as

Disputes
concerning
rights of use
of immove-
able pro-
perty, etc.

⁴[147. (1) Whenever any District Magistrate, Sub-Divisional Magistrate⁵[or any other Executive Magistrate specially empowered by the State Government in this behalf] is satisfied, from a police-report or other information, that a dispute likely to cause a breach of the peace exists

¹ Substituted by Act 26 of 1955, s. 19, for the original sub-section (1).

² Inserted by Act 18 of 1923, s. 29.

³ See now the Code of Civil Procedure, 1908 (5 of 1908).

⁴ Substituted by Act 18 of 1923, s. 30, for original s. 147.

⁵ Substituted by Bom. 23 of 1951, s. 2 and Schedule Part I, for "or Magistrate of the first class".

explained in section 145, sub-section (2) whether such rights be claimed as an easement or otherwise, within the local limits of his jurisdiction, he may make an order in writing stating the grounds of his being so satisfied and requiring the parties concerned in such dispute to attend the Court in person or by pleader within a time to be fixed by such Magistrate and to put in written statements of their respective claims and shall thereafter inquire into the matter in the manner hereinafter provided.

regarding any alleged right of user of any land or water as explained in section 145, sub-section (2) whether such rights be claimed as an easement or otherwise, within the local limits of his jurisdiction, he may make an order in writing stating the grounds of his being so satisfied and requiring the parties concerned in such dispute to attend the Court in person or by pleader within a time to be fixed by such Magistrate and to put in written statements of their respective claims, and shall thereafter inquire into the matter ¹[in the manner hereinafter provided].

²[(14) The Magistrate shall then peruse the statements so put in, hear the parties, receive all such evidence as may be produced by them respectively, consider the effect of such evidence, take such further evidence, if any, as he thinks necessary and, if possible, decide whether such right exists and the provisions of section 145 shall, as far as may be, be applicable in the case of such inquiry.]

(2) If it appears to such Magistrate that such right exists, he may make an order prohibiting any interference with the exercise of such right :

Provided that no such order shall be made where the right is exercisable at all times of the year, unless such right has been exercised within three months next before the institution of the inquiry, or where the right is exercisable only at particular seasons or on particular occasions, unless the right has been exercised during the last of such seasons or on the last of such occasions before such institution.

(3) If it appears to such Magistrate that such right does not exist, he may make an order prohibiting any exercise of the alleged right.

(4) An order under this section shall be subject to any subsequent decision of a Civil Court of competent jurisdiction.]

148. (1) Whenever a local ^{Local} inquiry is necessary for the purposes of this Chapter, any District Magistrate or Sub-Divisional Magistrate may depute any Magistrate subordinate to him to make the inquiry, and may furnish him with such written instructions as may seem necessary for his guidance, and may declare by whom the whole or any part of the necessary expenses of the inquiry shall be paid.

148. (1) Whenever a local ^{Local} inquiry is necessary for the purposes of this Chapter, any District Magistrate, ³[a Chief Presidency Magistrate] or Sub-Divisional Magistrate may depute any Magistrate subordinate to him to make the inquiry, and may furnish him with such written instructions as may seem necessary for his guidance, and may declare by whom the whole or any part of the necessary expenses of the inquiry shall be paid.

¹ Substituted by Act 26 of 1955, s. 20 (a), for the original portion.

² Inserted, *ibid.*, s. 20 (b).

³ Inserted by Bom. 34 of 1953, s. 7.

(2) The report of the person so deputed may be read as evidence in the case.

Order as
to costs.

(3) When any costs have been incurred by any party to a proceeding under this Chapter * * * the Magistrate passing a decision under section 145, section 146 or section 147 may direct by whom such costs shall be paid, whether by such party or by any other party to the proceeding, and whether in whole or in part or proportion. ²[Such costs may include any expenses incurred in respect of witnesses, and of pleaders' fees, which the Court may consider reasonable.]

CHAPTER XIII.

PREVENTIVE ACTION OF THE POLICE.

Police to
prevent
cognizable
offences.

149. Every police-officer may interpose for the purpose of preventing, and shall, to the best of his ability, prevent, the commission of any cognizable offence.

Information
of design to
commit such
offences.

150. Every police-officer receiving information of a design to commit any cognizable offence shall communicate such information to the police-officer to whom he is subordinate, and to any other officer whose duty it is to prevent or take cognizance of the commission of any such offence.

Arrest to
prevent such
offences.

151. A police-officer knowing of a design to commit any cognizable offence may arrest, without orders from a Magistrate and without a warrant, the person so designing, if it appears to such officer that the commission of the offence cannot be otherwise prevented.

Prevention
of injury
to public
property.

152. A police-officer may of his own authority interpose to prevent any injury attempted to be committed in his view to any public property, moveable or immovable, or the removal or injury of any public landmark or buoy or other mark used for navigation.

Inspection of
weights and
measures.

153. (1) Any officer in charge of a police-station may, without a warrant, enter any place within the limits of such station for the purpose of inspecting or searching for any weights or measures or instruments for weighing, used or kept therein, whenever he has reason to believe that there are in such place any weights, measures or instruments for weighing which are false.

(2) If he finds in such place any weights, measures or instruments for weighing which are false, he may seize the same, and shall forthwith give information of such seizure to a Magistrate having jurisdiction.

PART V.

INFORMATION TO THE POLICE AND THEIR POWERS TO INVESTIGATE.

CHAPTER XIV.

Information
in cognizable
cases.

154. Every information relating to the commission of a cognizable offence if given orally to an officer in charge of a police-station, shall be reduced to writing by him or under his direction, and be read over to the informant; and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer in such form as the ²[State] Government may prescribe in this behalf.

* The words "for witnesses, or pleaders' fees, or both" rep. by the Code of Criminal Procedure (Amendment) Act, 1922 (18 of 1922), s. 31.

² Substituted by section 31, *ibid.*, for "All costs so directed to be paid may be recovered as if they were fines".

³ Substituted by the A. O. 1937 for "L. G.".

⁴ Substituted by the A. O. 1950 for "Provincial".